



**U.S. Department of Justice**

*United States Attorney  
Southern District of New York*

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*86 Chambers Street  
New York, New York 10007*

December 5, 2019

**BY ECF**

Honorable Jesse M. Furman  
United States District Judge  
United States District Court  
Southern District of New York  
40 Foley Square  
New York, NY 10007

Re: *State of New York et al v. U.S. Department of Treasury, et al.*, 19 Civ. 4024 (JMF)

Dear Judge Furman:

In accordance with the Court's November 22, 2019 Order, ECF No. 35, we write on behalf of all parties in the above referenced FOIA litigation.

**Status of Defendants' FOIA Response**

To date, Defendants the United States Department of Treasury and the Internal Revenue Service ("IRS") have made seven productions of documents in response to Plaintiffs' FOIA request. In total, the IRS has produced the non-exempt portions of 2,409 pages of documents identified as responsive to Plaintiff's FOIA request; Treasury has produced the non-exempt portions of 366 pages of documents responsive to the request.

Currently, IRS has 6,510 documents that have been identified as potentially responsive to Plaintiff's FOIA request that will require further review. Treasury has approximately 500 potentially responsive documents remaining for review.

**Status of Parties' Discussion Regarding Narrowing and Prioritizing**

On December 3, 2019, counsel for the parties met in person for one hour as directed by the Court. The meet and confer was productive and the parties discussed possible ways of narrowing and prioritizing the scope of the documents previously identified as potentially responsive to the FOIA request. The parties hope that they will be able to reach agreement on a path forward that would narrow the universe of documents requiring review and reduce the overall time for production.

Specifically, Defendants are gathering statistics as to how certain types of proposed narrowing/prioritization would affect the volume of documents remaining for review, and expect

to provide those estimates to Plaintiffs by December 11, 2019. Additionally, Defendants have requested that Plaintiffs propose search terms that could be run within the previously collected documents to allow Defendants to narrow the universe to the material that Plaintiffs are most interested in receiving. The identification of search terms will need to be an iterative process because the proposed search terms will need to be tested and supplemented to insure that they capture the information Plaintiffs are seeking, while at the same time meaningfully contributing to a reduction in the burden of review.

With respect to the *Vaughn* index, the parties are likewise hopeful that they have reached an agreement that will provide Plaintiffs the information that they need to evaluate the withholdings that will not substantially slow the pace of production. Specifically, going forward, after each production Defendants will provide additional information regarding any documents that are withheld in full, and Plaintiffs will identify any redactions with respect to which they would like additional detail to evaluate the basis for the withholdings.

Respectfully submitted,

GEOFFREY S. BERMAN  
United States Attorney

By: /s/ Dominika Tarczynska  
DOMINIKA TARCZYNSKA  
Assistant United States Attorney  
Tel. (212) 637-2748  
Fax (212) 637-2686  
dominika.tarczynska@usdoj.gov

*Counsel for Defendants United States Department  
of the Treasury and Internal Revenue Service*